

Wisconsin State Legislature

SENATE CHAIR
ALBERTA DARLING

317 East, State Capitol
P.O. Box 7882
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Phone: (608) 266-5830



ASSEMBLY CHAIR
ROBIN VOS

309 East, State Capitol
P.O. Box 8593
Madison, WI 53708-8953
Phone: (608) 266-9171

Joint Committee on Finance

MEMORANDUM

To: Members
Joint Committee on Finance

From: Senator Alberta Darling
Representative Robin Vos

Date: April 30, 2012

Re: s. 16.515/16.505(2), Stats. Request

Attached is a copy of a request from the Department of Administration, received April 30, 2012, pursuant to s. 16.515/16.505(2), Stats., on behalf of the Department of Justice.

Please review the material and notify **Senator Darling** or **Representative Vos** no later than **Thursday, May 17, 2012**, if you have any concerns about the request or if you would like the Committee to meet formally to consider it.

Also, please contact us if you need further information.

Attachments

AD:RV:jm



**WISCONSIN DEPARTMENT OF
ADMINISTRATION**

SCOTT WALKER
GOVERNOR

MIKE HUEBSCH
SECRETARY

Office of the Secretary
Post Office Box 7864
Madison, WI 53707-7864
Voice (608) 266-1741
Fax (608) 267-3842

Date: April 30, 2012

To: The Honorable Alberta Darling, Co-Chair
Joint Committee on Finance

The Honorable Robin Vos, Co-Chair
Joint Committee on Finance

From: Mike Huebsch, Secretary
Department of Administration

Subject: s. 16.515/16.505(2) Request(s)

Enclosed are request(s) that have been approved by this department under the authority granted in s. 16.515 and s. 16.505(2). The explanation for each request is included in the attached materials. Listed below is a summary of each item:

<u>AGENCY</u>	<u>DESCRIPTION</u>	<u>2011-12</u> <u>AMOUNT</u>	<u>FTE</u>	<u>2012-13</u> <u>AMOUNT</u>	<u>FTE</u>
DOJ 20.455(1)(km)	Interagency and intra- Agency assistance	\$76,000	2.0*	\$240,000	2.0*

* Permanent position authority

As provided in s. 16.515, the request(s) will be approved on **May 21, 2012**, unless we are notified prior to that time that the Joint Committee on Finance wishes to meet in formal session about any of the requests.

Please contact Mary Hamele at 266-1807, or the analyst who reviewed the request in the Division of Executive Budget and Finance, if you have any additional questions.

Attachments

Date: May 16, 2012

To: Brian Hayes

From: Peter Kirby

Subject: Section 16.515/16.505(2) Request(s)

Attached is a s. 16.515/505(2) request analysis for your approval and processing.
Listed below is a summary of each item:

DOA RECOMMENDATION:

<u>AGENCY</u>	<u>DESCRIPTION</u>	<u>2011-12</u>		<u>2012-13</u>	
		<u>AMOUNT</u>	<u>FTE</u>	<u>AMOUNT</u>	<u>FTE</u>
DOJ 20.455(1)(km)	Interagency and intra- agency assistance	\$76,000	2.0*	\$240,000	2.0*

* Permanent position authority.

AGENCY REQUEST:

<u>AGENCY</u>	<u>DESCRIPTION</u>	<u>2011-12</u>		<u>2012-13</u>	
		<u>AMOUNT</u>	<u>FTE</u>	<u>AMOUNT</u>	<u>FTE</u>
DOJ 20.455(1)(km)	Interagency and intra- agency assistance	\$76,000	2.0*	\$240,000	2.0*

* Permanent position authority.

BKH APPROVAL  (FORWARD TO MARY HAMELE)



**WISCONSIN DEPARTMENT OF
ADMINISTRATION**

SCOTT WALKER
GOVERNOR

MIKE HUEBSCH
SECRETARY

Division of Executive Budget and Finance
Post Office Box 7864
Madison, WI 53707-7864
Voice (608) 266-1736
Fax (608) 267-0372
TTY (608) 267-9629

Date: April 17, 2012

To: Mike Huebsch, Secretary
Department of Administration

From: Peter Kirby
Executive Budget and Policy Analyst

Subject: Request under s. 16.505/515 from the Department of Justice for the creation of 2.0 FTE permanent positions and related program revenue spending authority.

REQUEST:

The Department of Justice requests 2.0 FTE permanent assistant attorney general positions and \$76,000 program revenue spending authority for the last three months of fiscal year 2011-12 and an annualized cost of \$240,000 starting in fiscal year 2012-13 for the department's Division of Legal Services in the interagency and intra-agency assistance appropriation under s. 20.455(1)(km). The 2.0 FTE positions and related program revenue spending authority are requested to defend the Department of Transportation (DOT) in property and eminent domain actions in which landowners seek additional compensation for property purchased or condemned for highway projects.

REVENUE SOURCES FOR APPROPRIATION(S):

The revenue source for the funding of the positions is the interagency and intra-agency assistance appropriation under s. 20.455(1)(km) through a transfer of funds from the state highway rehabilitation, state funds appropriation under s. 20.395(3)(cq) as per an agreement between the department and DOT.

BACKGROUND:

The department is statutorily directed to provide legal services to DOT. Accordingly, the department represents DOT in appeals for additional compensation and in other eminent domain related litigation. Landowners may seek additional payment for land that is needed for construction or relocation of highways whether the purchase price is negotiated and the title is transferred to the state by deed or the property is condemned. By state statute, eminent domain valuation cases have precedence over all other actions that are not on trial and they must be tried by a jury unless it is waived by all parties.

The department and DOT have had a biennial interagency agreement since December 1991. This agreement established the annual payment from DOT to the department for property and eminent domain legal services provided by the department. The latest agreement stems from August 2011 and provides two annual payments of \$413,579 to fund 4.5 FTE permanent positions dedicated to the DOT property and eminent domain legal work for fiscal years 2011-12 and 2012-13. Specifically, the agreement provides for 2.0 FTE assistant attorney general positions, 1.0 FTE paralegal and 1.5 FTE legal secretary positions. Additionally, \$5,000 is available each year from DOT to allow the department to provide eminent domain related training or acquire eminent domain related professional materials for the development and retention of experienced attorneys and support staff.

ANALYSIS:

There has been sustained and significant growth in the number of cases referred for representation each year since the inception of the biennial agreement. The number of eminent domain cases has increased to the point where the two assistant attorneys general are not able to effectively handle the workload. For example, between 2005 and 2011, the amount of cases doubled from 35 to 70 cases per year. Past experience suggests that approximately 200 hours are needed per case. Although some cases settle without a trial, the department's experience has been that a settlement does not occur until the formal discovery process has been completed and the case has been prepared for trial. This is because there is very little incentive for the landowner to settle, in view of the provisions of s. 32.28, Wis. Stats., which allows for the recovery of litigation expenses when the verdict exceeds the original compensation award by 15 percent or more. Thus, many cases are extended for the purpose of increasing litigation expenses.

The Department of Transportation has determined that, absent adequate resources to represent it in eminent domain cases, the liability to the state will remain significantly more than the annual cost of the proposed positions. Consequently, DOT has recommended an amendment to the current biennial agreement to include payment for an additional 2.0 FTE assistant attorney general positions. The funds from DOT will come from the SEG state highway rehabilitation, state funds appropriation under s. 20.395(3)(cq). The funds will be transferred as per the agreement to the appropriation under s. 20.455(1)(km) which specifically authorizes the department to spend moneys received from other state agencies for the legal services provided to those agencies.

Costs for the last three months of fiscal year 2011-12 would be \$60,000 for the two assistant attorney general positions plus one-time setup costs of \$16,000. The ongoing annual costs of the two positions would be \$240,000, starting in fiscal year 2012-13. The Department of Transportation has sufficient funds available for this purpose and fully supports this request.

Mike Huebsch, Secretary

Page 3

April 17, 2012

The additional costs to DOT from the two proposed positions is quite modest in comparison with what DOT has incurred in annual litigation transaction costs related to real estate purposes. These costs ranged from a low of \$6.6 million in fiscal year 2005-06 to a high of \$10.9 million in fiscal year 2007-08. The addition of the proposed attorney positions will ensure that land owners receive just compensation and will deter frivolous litigation that is motivated only by potential legal fees. Additionally, with increases in federal highway funding and several large projects planned for the next decade, it is likely that there will be an increase in eminent domain workload on an ongoing basis. The addition of the two positions will decrease the burden and increase the efficiency and quality of the department's representation of DOT.

RECOMMENDATION:

Approve the request.



STATE OF WISCONSIN
DEPARTMENT OF JUSTICE

J.B. VAN HOLLEN
ATTORNEY GENERAL

Kevin M. St. John
Deputy Attorney General

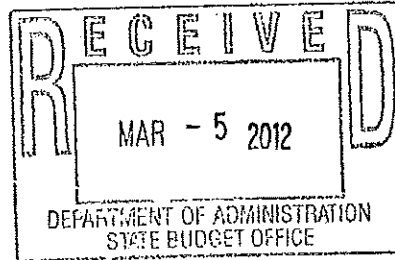
Steven P. Means
Executive Assistant

17 West Main Street
P.O. Box 7857
Madison, WI 53707-7857

Cindy O'Donnell
Administrator
Division of Management Services
608/267-1300
TTY 1-800-947-3529
Fax 608/266-1656
odonnellc@doj.state.wi.us

March 1, 2012

Brian Hayes, Administrator
State Budget Office
Department of Administration
P.O. Box 7864
Madison, WI 53707-7864



Re: Request under sec. 16.505 and 16.515 for the creation of 2.0 FTE permanent positions and related Program Revenue spending authority.

Dear Mr. Hayes:

Under the sections 16.505 and 16.515, Wisconsin Statutes, the Department of Justice (DOJ) requests 2.0 FTE permanent Assistant Attorneys General (AAG) positions and the related Program Revenue (PR) spending authority for DOJ's Division of Legal Services in the PR appropriation under sec. 20.455(1)(km) *Interagency and intra-agency assistance*.

The 2.0 FTE positions and \$75,860 PR for Fiscal Year (FY) 2012 is needed to defend the Department of Transportation (WisDOT) in property and eminent domain actions in which the landowners seek additional compensation for property purchased or condemned for highway projects. Funding is requested for three months in FY 2012. Annualized costs are \$239,430.

BACKGROUND

Section 165.25(4)(a), Stats., directs the Department of Justice to furnish all legal services required by the WisDOT. Accordingly, DOJ represents WisDOT in all appeals for additional compensation and in other eminent domain related litigation provided for in ch. 32, Stats. Landowners may seek additional payment for land that is needed for the construction or relocation of highways whether the purchase price is negotiated and title is transferred to the state by deed or the property is condemned (Sec. 32.05, Stats.). By law, eminent domain valuation cases (an appeal that has been filed in circuit court) have precedence over all other actions that are not on trial and they must be tried by jury unless waived by all parties.

DOJ and WisDOT have been in a biennial interagency¹ agreement since December, 1991. This agreement established the annual payment from WisDOT to DOJ for property and eminent domain legal services provided by DOJ. The latest agreement dated August 24, 2011 provides for \$413,579 in funding for 4.5 permanent FTE positions dedicated to WisDOT property and eminent domain legal work for the fiscal year ending June 30, 2012 and another payment of an equal amount for the fiscal year ending June 30, 2013. The agreement specifies 2.0 Assistant Attorneys General, 1.0 Paralegal-Objective, and 1.5 Legal Secretary-Objective Confidential positions. An additional amount, up to \$5,000, is available each year from WisDOT to allow DOJ to provide eminent domain related training or acquire eminent domain related professional materials for the development and retention of experienced and high quality attorneys and support staff providing eminent domain legal services to WisDOT.

ANALYSIS

There has been a sustained growth in the number of cases referred for representation each year since the inception of DOJ's arrangement with WisDOT. The number of eminent domain cases has now increased to the point where two AAGs are not able to adequately handle the workload. By way of illustration, the number of eminent domain assignments since 2005 are as follows:

2005: 35
2006: 48
2007: 42
2008: 48
2009: 75
2010: 74
2011: 70

Note that the number of cases has doubled since 2005. This increase in the number of cases referred to DOJ is a significant indicator of attorney resource needs. It is assumed that increases in federal highway funding will result in an increase in eminent domain workload for DOJ.

The time required to handle a case, from the point of referral through a jury trial, varies from case to case. Past DOJ experience suggests that at least 200 hours are needed, on average, per case. Most attorneys cannot be expected to effectively prepare more than one case for trial per month, for a variety of reasons. Without additional resources, the existing complement of attorneys

¹ "Agreement - Wisconsin Department of Transportation and Wisconsin Department of Justice - Supplementary Funding for Legal Services" dated December 4, 1991; extension and \$120,000 amendment by letter dated January 18, 1994; extension and \$140,000 amendment by letter dated December 11, 1995; extension and \$160,000 amendment by letter dated July 1, 1997; extension and \$328,000 amendment by letters dated September 8, 1998 and February 17, 1999; extension amendment to June 30, 2002 dated June 20, 2002; extension agreement to June 30, 2003 dated April 15, 2003; extension agreement to June 30, 2005 and \$342,000 amendment by letter dated June 30, 2003; extension to June 30, 2007 and \$356,000 amendment by letter dated September 6, 2005; extension agreement to June 30, 2009 and \$427,605 amendment by letter dated March 11, 2008; extension agreement to June 30, 2011 dated January 11, 2010; and extension agreement to June 30, 2013 and \$413,579 amendment by letter dated August 24, 2011.

Bryan Hayes, Administrator
State Budget Office
March 1, 2012

available for this work will simply be unable to meet the demands of the workload, as described.

Although some cases do settle without a trial, DOJ's experience shows that this does not occur until the formal discovery process has been completed and the case has been prepared for trial. There is very little incentive for the landowner to settle, in view of the provisions of sec. 32.28, Stats., which allows for the recovery of litigation expenses when the verdict exceeds the original award of compensation by 15 percent.

A single case can have far reaching ramifications not only in the way the State does business, but also in the direct cost of doing business. The level of effort expended in preparation of a case can have a direct effect on whether the case is pursued or settled. It is not in the State's best interest to expect the current 4.50 FTE to handle the existing eminent domain workload, let alone the increased work that is expected to occur in the future.

REVENUE SOURCE

The appropriation under sec. 20.455(1)(km) *Interagency and intra-agency assistance* specifically authorizes the Department to spend moneys received from other state agencies for legal services provided to those agencies.

It is WisDOT's belief that absent adequate resources to represent it in eminent domain cases, the liability to the state will remain significantly more than the annual cost of these new positions. In light of this reality, WisDOT has recommended an amendment to the current agreement to include payment for 2.0 additional AAGs. DOJ is submitting this request to acquire the position authority to accommodate the demand on services.

The fiscal details associated with this request, shown on an annualized basis and FY 2012 need, is summarized as follows:

	FY12 (3 Mo.) + Set-up for 2 AAG	On-going Annual Cost of 2 AAG
Salary @ \$40/hour	\$ 41,600	\$ 166,400
Fringe @ 38.12%	\$ 15,858	\$ 63,432
Annual On-going S/S Costs	\$ 2,400	\$ 9,600
Grand Total	\$ 59,858	\$ 239,432
Set-up costs FY12 only	\$ 16,000	
	\$ 75,858	

SUMMARY

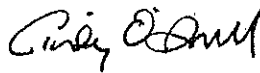
The Department of Justice requests position authority for 2.0 FTE permanent Assistant Attorneys General positions for the Division of Legal Services, and \$75,860 in PR spending authority in FY 2012 and \$239,430 in FY 2013 and beyond in the appropriation under sec. 20.455(1)(km) *Interagency and intra-agency assistance*. The WisDOT has funds available for this purpose and supports this request as demonstrated in the enclosed correspondence from WisDOT.

Bryan Hayes, Administrator
State Budget Office
March 1, 2012

Approval of this request will allow the Department of Justice to continue to fulfill its obligation to provide quality legal representation to the Department of Transportation, and the citizens of Wisconsin.

Please forward this request to the Joint Committee on Finance at the earliest possible time. Questions should be directed to Kevin Potter (608) 266-0332, Administrator of the Legal Services Division; or Bonnie Anderson (608) 267-6714, the Department's Director of Budget and Finance. James Thiel, General Counsel at WisDOT (608) 266-8928 has worked on this issue as well.

Sincerely,

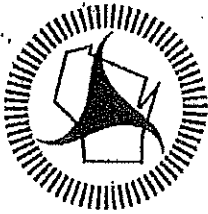


Cindy O'Donnell
Administrator
Division of Management Services

Enclosure

cc: Kevin St. John
Bonnie Anderson
Kevin Potter
Elaine Velez
Leah Wavrunek, DOA
James Thiel, WisDOT

CLO: bra



Wisconsin Department of Transportation

www.dot.wisconsin.gov

Scott Walker
Governor

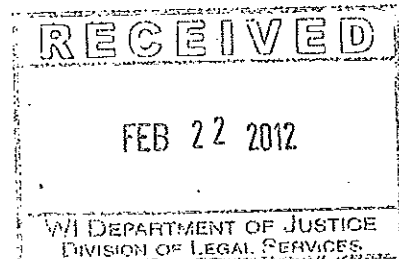
Mark Gottlieb, P.E.
Secretary

Office of the Secretary
4802 Sheboygan Avenue, Room 120B
P O Box 7910
Madison, WI 53707-7910

February 20, 2012

Telephone: 608-266-1113
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E-mail: sec.exec@dot.wi.gov

Attorney General J.B. Van Hollen and
Kevin C. Potter, Administrator
Division of Legal Services, Department of Justice
17 West Main Street, P.O. Box 7857
Madison, WI 53707-7857



Re: Supplementary Funding for Legal Services

Dear Attorney General Van Hollen and Administrator Potter:

WisDOT fully supports the efforts of DOJ to obtain two additional attorney positions dedicated to providing legal services to WisDOT as required by Wis. Stat. 165.25(4)(a). WisDOT desires and is willing and able to increase its supplementary funding agreement¹ with DOJ to pay for these two additional FTE Attorney positions devoted to WisDOT specialized property acquisition and relocation work. The objective of this funding agreement has been and is to develop and retain experienced and high quality litigation related legal services from DOJ for WisDOT.

WisDOT is aware that the number of DOJ attorneys has remained constant, while litigation incentives and WisDOT caseloads continue to rise. As a result WisDOT is convinced two additional DOJ attorneys are needed to competently represent Wisconsin taxpayers, restore owners' representation aimed at ensuring land owners receive just compensation and to deter litigation that is truly motivated only by potential legal fees.

The cost to WisDOT of these two additional DOJ positions is very modest in comparison with what WisDOT has incurred in annual litigation transaction costs alone related to real estate purchases ranging from a low of \$6.6M in FY05 to a high of \$10.9M in FY08. Costs in FY10 were \$9.6M. Moreover, we believe these legal fees are truly disproportionate to settlements received by landowners. For example, in five cases between September 2002 and June 2006, average private attorney fees were \$65,700. The average landowner settlement in these cases was \$39,700. WisDOT believes these two additional attorney positions will help WisDOT and DOJ correct this problem, actually deter unnecessary litigation and promote the best public interest of owners and taxpayers alike.

Sincerely,

Mark Gottlieb, P.E.
Secretary

James S. Thiel
Chief Legal Counsel

¹ "Agreement - Wisconsin Department of Transportation and Wisconsin Department of Justice - Supplementary Funding for Legal Services" dated 12/4/91 that has been amended and extended every two years through June 30, 2013 - Attachments A and B

AGREEMENT

Wisconsin Department of Transportation
and
Wisconsin Department of Justice
Supplementary Funding for Legal Services

I. STATEMENT OF PURPOSE

Under s. 165.25 (4) (a), the Department of Justice is required to furnish all legal services, together with any other services, including stenographic and investigational, as are necessarily connected with Department of Transportation legal work. Reimbursement to the Department of Justice from the Transportation Fund for these required legal services is provided under s. 20.395 (4) (aq).

Present Department of Justice staffing levels cannot adequately address transportation related needs, however. Inadequate consultation or untimely Department of Justice responses may unnecessarily delay project construction and can increase project costs.

The purpose of this supplementary funding agreement is to provide the Department of Justice with the additional resources and funding to assist it in carrying out in a timely manner its responsibilities under s. 165.25 (4) (a).

II. BASIS FOR AGREEMENT

The legal services provided to the Department of Transportation by the Department of Justice are, in large part, related to the condemnation of property. As the highway construction program has expanded, real estate acquisition activities have increased dramatically. This workload is expected to continue to grow in the next few years as the Corridors 2020 program is implemented.

Prior to the most recent expansion in the Department of Transportation's highway improvement program, the Department of Justice was able to fulfill its responsibilities and obligations under s. 165.25 (4) (a), using existing budgetary resources. The increased need for legal services related to transportation projects has, however, resulted in a backlog at the Department of Justice and its legal staff is no longer able to provide the level of service that the highway program demands and the statutes require. In response to this reality, the Department of

Transportation and the Department of Justice have decided to enter into this agreement.

III. ITEMS OF AGREEMENT

- A. The Department of Justice will employ 1.5 Full Time Equivalent (FTE) additional positions to carry out its responsibilities related to the highway improvement program.
- B. These positions shall include one additional attorney and one-half additional legal secretary.
- C. These positions are to increase Department of Justice services to Department of Transportation, not supplement current Department of Justice resources.
- D. The Department of Transportation will fund these 1.5 positions. These SEG funded positions will be employees of the Department of Justice and subject to the Department of Justice's Work Rules and Code of Ethics.
- E. The amount of SEG funding for the 1.5 FTE positions to be employed by the Department of Justice will be guided by the following:
 - 1) Costs shall be reasonable, supported, and referenced to the appropriate project.
 - 2) Eligible cost items shall include the following: salary, fringe benefits, exceptional performance and equity awards, travel, training, supplies, and office equipment. These are to be itemized when invoicing the Department of Transportation.
 - 3) No other costs shall be reimbursed without specific, prior authorization from the Department of Transportation.
 - 4) Annual salary and fringe benefit funding will be sufficient to fund one additional full time equivalent attorney and one-half additional legal secretary.
 - 5) Total annual payment under this supplementary agreement shall not exceed \$100,000.
 - 6) All documents supporting the costs shall be available for audit by the Department of Transportation or the Federal Highway Administration (FHWA) in accordance with established procedures.

- 7) The Department of Transportation shall notify the Department of Justice of projects that have been closed to further charges.
- F. The Department of Transportation and the Department of Justice will reevaluate this agreement in July, 1993 and every two years thereafter to determine whether the agreement should be continued or if the amount of SEG funding is sufficient or if other amendments are needed.

This agreement is contingent on approval by the Joint Committee on Finance and the Department of Administration pursuant to sec. 16.505, Stats.

Wisconsin Department of Transportation

Ronald R Fiedler

Ronald R. Fiedler, Secretary

12/4/91

Date

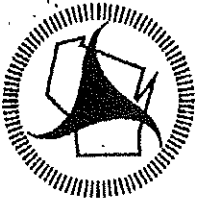
Wisconsin Department of Justice

James Doyle

James Doyle, Attorney General

12/4/91

Date



Wisconsin Department of Transportation

www.dot.wisconsin.gov

Scott Walker
Governor

Mark Gottlieb, P.E.
Secretary

Office of General Counsel
4802 Sheboygan Ave., Rm. 115B
P.O. Box 7910
Madison, WI 53707-7910

August 29, 2011

Telephone: 608-266-8810
FAX: 608-267-6734
E-mail: ogc.exec@dot.wi.gov

Kevin C. Potter, Administrator
Division of Legal Services, Department of Justice
17 West Main Street, P.O. Box 7857
Madison, WI 53707-7857

Dear Mr. Potter:

WisDOT has a separate grant¹ agreement with DOJ for 4.5 FTE positions dedicated to WisDOT eminent domain and property work. The agreement calls for 2.0 Attorney 15 positions, 1.0 Paralegal-Objective, and 1.5 Legal Secretary-Objective Conf. positions to be dedicated exclusively to WisDOT. The objective of this contract has been and is to develop and retain experienced and high quality property and eminent domain legal services for WisDOT from DOJ.

Under paragraph III. E. 5) of the most recent WisDOT grant agreement as amended, WisDOT had been providing an annual payment to DOJ of \$413,579. This agreement expired June 30, 2011. Paragraph III. F. of the grant agreement states WisDOT and DOJ will reevaluate this agreement every two years "to determine whether the agreement should be continued or if the amount of SEG funding is sufficient or if other amendments are needed."

After discussion, we agreed to amend the expired grant agreement to allow payment in the amount of \$413,579 each year for these 4.5 dedicated positions funded from this agreement for the fiscal year ending June 30, 2012 and for the fiscal year ending June 30, 2013. An additional amount, up to \$5,000, will be made available each year to DOJ by WisDOT to allow DOJ to provide eminent domain related training or acquire eminent domain related professional materials to develop and retain experienced and high quality eminent domain attorneys and support staff to provide legal services to WisDOT. Please indicate your acceptance of this extension by executing and returning a copy of this letter to me.

Sincerely,

James S. Thiel
General Counsel

Amendment accepted and approved by Kevin C. Potter for the Wisconsin Department of Justice:

Kevin C. Potter

8/31/11
Date

¹ "Agreement - Wisconsin Department of Transportation and Wisconsin Department of Justice - Supplementary Funding for Legal Services" dated 12/4/91; extension and \$120,000 amendment by letter dated January 18, 1994; extension and \$140,000 amendment by letter dated December 11, 1995; extension and \$160,000 amendment by letter dated July 1, 1997; extension and \$328,000 amendment by letters dated September 8, 1998 and February 17, 1999; extension amendment to June 30, 2002 dated June 20, 2002; extension agreement to June 30, 2003 dated April 15, 2003; extension agreement to June 30, 2005 and \$342,000 amendment by letter dated June 30, 2003; extension to June 30, 2007 and \$356,000 amendment by letter dated September 6, 2005; extension agreement to June 30, 2009 and \$427,605 amendment by letter dated March 11, 2008 and amendment by letter dated January 11, 2010.